

REMARKS

Interview

Applicant would like to thank the Examiner for the courtesy extended to Applicant's representative during the interview held on June 29, 2009. The amendments and remarks submitted herein summarize the topics discussed during the interview.

Status of the Claims

Claims 1, 3, and 5-23 are pending. Claims 9-11 have been withdrawn as being allegedly drawn to a non-elected invention. Claims 1, 3, 5-8, and 12-23 remain under consideration. Of these claims under consideration, claims 1 and 3 are independent.

In the Office Action, claims 1 and 3 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. In addition, claims 1 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Takayasu (U.S. Patent Appl. Publ. No. 2001/0025265) in view of Calo et al. (U.S. Patent Appl. Publ. No. 2002/0087454). Further, claims 508 and 12-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Takayasu in view of Calo and Tsagarakis et al. (U.S. Patent Appl. Publ. No. 2002/0087455).

Rejection Under § 112, First Paragraph

In the Office Action, claims 1 and 3 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement because the claim limitations "establishing the foreign currency as a stock" in claim 1 and "listing the foreign currency as a stock" in claim 3 are allegedly not found in the specification. Office Action at 3.

Applicant respectfully submits that these limitations are fully supported by the specification as required by 35 U.S.C. § 112, ¶ 1. For instance, “establishing the foreign currency as a stock” is described at, for example, page 5, lines 17-19, which describes the “establishment of ‘exchange shares’ (step 101)” and further explains that “[i]n certain embodiments of the invention, an exchange share represents a predetermined number of units of a foreign currency to be offered for trade in terms of the native currency of a stock exchange.” Applicant respectfully submits that, in view of the discussion above, the rejection of claim 1 under 35 U.S.C. § 112, first paragraph, should be withdrawn.

With regard to claim 3, for reasons unrelated to the § 112, first paragraph rejection, Applicant has amended claim 3 to recite “establishing” instead of “listing.” Therefore, Applicant respectfully submits that the § 112, first paragraph rejection should be withdrawn for at least the same reasons discussed above with respect to claim 1.

§ 103(a) Rejection of Independent claim 1

The rejection of independent claim 1 should be withdrawn because the Office Action fails to establish a prima facie case of obviousness. The Office Action acknowledges that Takayasu fails to disclose or suggest, among other things, “establishing the foreign currency as a stock on a stock exchange, wherein the stock comprises a number of units of the foreign currency offered for trade in terms of a native currency of the stock exchange,” as recited in independent claim 1. In an attempt to cure this acknowledged deficiency, the Office Action relies on Calo, citing col. 2, pg. 2, para. [0030]. Office Action at 4.

Calo teaches a procedure for performing a completely different transaction that that which is disclosed in the present application. The claims of the present application

set forth aspects of a transaction whereby a party is able to exchange one currency for another currency using a stock exchange. Rather than requesting a currency exchange at a financial institution like a bank, an embodiment described in the present application proposes establishing or listing a stock on a stock exchange where the stock comprises a number of units of a foreign currency which are offered for purchase in terms of a different currency, such as the native currency of the stock exchange. Such a stock could be purchased by a party in order to exchange, for instance, native currency for foreign currency. For example, as explained in the last full paragraph of page 6 of Applicant's specification, if the exchange rate is approximately \$12.00 USD = 1000 Yen, then one share of an exchange stock on a U.S. stock exchange would be worth 1000 Yen and would sell for about \$12.00 USD. Therefore, anyone wishing to convert \$12.00 USD to 1000 Yen could simply purchase one share of the exchange stock using their \$12.00 USD.

In contrast, Calo teaches a method for a buyer in one country to purchase a stock on a stock exchange in a foreign country where the stock trades in a currency that differs from the currency used in the first country. For instance, in paragraphs [0031] and [0032], Calo describes an "example of an Australian customer buying U.S. stocks." The transaction involves a conventional "global foreign exchange liquidity bank" to exchange the buyer's Australian dollars for U.S. dollars. Para. [0032]. Then, the U.S. stock is purchased on the U.S. stock market with U.S. dollars obtained from the exchange bank. *Id.*

In order to enable Applicant's disclosed exchange transactions via a stock exchange, a stock is established which comprises a number of units of the foreign

currency offered for trade in terms of a different currency, e.g., the native currency of the stock exchange. Applicant respectfully submits that Calo fails to disclose or suggest “establishing the foreign currency as a stock on a stock exchange . . . ,” as recited in independent claim 1. The only stocks involved in the Calo transaction are standard U.S. stocks. The currency exchange does not occur via a stock market, but rather at a conventional “exchange liquidity bank.” Therefore, Calo does not disclose or suggest “establishing the foreign currency as a stock on a stock exchange . . . ,” as recited in independent claim 1.

§ 103(a) Rejection of Independent Claim 3

Applicant has amended independent claim 3 to recite “establishing the foreign currency as a stock on a stock exchange, wherein the stock comprises a number of units of the foreign currency offered for trade in terms of a currency different than the foreign currency.” Emphasis added. Counsel for Applicant notes that, prior to Applicant’s amendment filed January 30, 2009, claims 1 and 3 referred to currency “different than the foreign currency.” Although not fully discussed in Applicant’s January 30 amendment, it appears that, these limitations may have been amended to refer to “native currency” possibly to overcome prior rejections under § 112, first paragraph.

However, Applicant respectfully calls the Examiner’s attention to the last paragraph on page 6, and the disclosure on page 7 of Applicant’s specification. This portion of Applicant’s specification discloses embodiments wherein a stock comprising one foreign currency can trade on a native stock exchange and be priced in terms of another foreign currency rather than in terms of the native currency of the stock exchange. For example, as explained on page 7, a stock representing Canadian dollars

can trade on a U.S. stock exchange and can be priced in terms of Yen instead of U.S. dollars. Therefore, Applicant respectfully submits that the limitations added to independent claim 3 are fully described in the specification and, therefore, meet the requirements of § 112, first paragraph.

To the extent Applicant's prior amendments changing "currency different than the foreign currency" to "native currency" may be interpreted as a disclaimer of claimed subject matter made in order to overcome the § 112, first paragraph rejection or to overcome prior art, Applicant rescinds any such disclaimer. Applicant further confirms that the amendments to claim 3 set forth above are intended to broaden the claim.

Despite the broadening of claim 3, Applicant respectfully submits that the cited art fails to disclose or suggest all the recited subject matter of independent claim 3. As explained above with respect to claim 1, the cited art fails to disclose or suggest "establishing the foreign currency as a stock on a stock exchange . . . ," which is also a requirement of independent claim 3. Accordingly, Applicant submits that, for at least the same reasons discussed above with respect to independent claim 1, independent claim 3 is also distinguishable over the cited art.

In addition, while Applicant does not agree that claim 3, as previously presented, was a substantial duplicate of claim 1, Applicant respectfully submits that, as amended herein, independent claim 3 is clearly of differing scope than claim 1. Accordingly, Applicant submits that the duplicate claims warning should be withdrawn.

Stock Names

In the Office Action, with respect to claims 13, 15, 17, 19, 21, and 23, the stock names of USJP, USEU, USCA, were considered not to exist except in Applicant's specification, and furthermore to be nonfunctional descriptive claim language. Applicant

respectfully submits that these stock names are examples of a system of nomenclature conceived by Applicant and expressed in the present application. These stock names follow a convention wherein the first two letters are the two-letter abbreviation of the country whose currency the stock is priced in terms of, and the second two letters are the two-letter abbreviation of the country whose currency the stock represents. See, e.g., Applicant's specification at page 7. For example, a stock name of USCA would be given to a stock that represents a predetermined amount of Canadian dollars in terms of U.S. dollars. *Id.* Thus, purchasing USCA would effectively exchange U.S. dollars for Canadian dollars.

For at least the foregoing reasons, Applicant respectfully submits that the recited stock names in claims 13, 15, 17, 19, 21, and 23 should not be considered to be merely nonfunctional descriptive language.

Conclusion

Applicant respectfully submits that each of independent claims 1 and 3 is allowable over the cited art. In addition, each of dependent claims 5-8 and 12-23 depends from one of independent claims 1 and 3. Accordingly, each of these dependent claims is allowable for at least the same reasons that the independent claim from which it respectively depends is allowable. In addition, these dependent claims contain limitations that further distinguish from the cited art.

In view of the foregoing remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of claims 1, 3, 5-8, and 12-23.

The Office Action contains characterizations and conclusions regarding the related art and Applicant's claims with which Applicant does not necessarily agree.

Unless expressly noted otherwise, Applicant declines to subscribe to any such characterizations and conclusions.

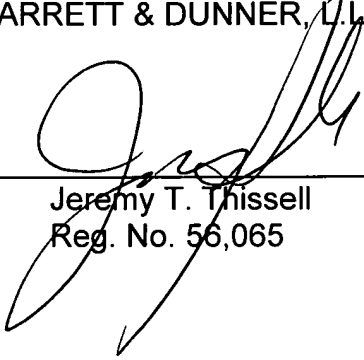
Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 22, 2009

By: _____


Jeremy T. Thissell
Reg. No. 56,065